

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated November 13, 2009. Reconsideration and allowance of the application in view of the remarks to follow are respectfully requested. Claims 1, 5, 6, 9–20, 22, 28–42, 45–50 and 54 are pending in the Application. Claims 51–53 are canceled herein, without prejudice. The Applicants respectfully reserve the right to reintroduce subject matter deleted herein, either at a later time during the prosecution of this application or any continuing applications. Claim 54 is added by this amendment. Claims 1, 20, 28, 30, 33, 40–42, and 45–50 are independent claims.

In the Office Action, claims 1, 5, 6, 9, 11–20, 22, 33–42, 47, 48 and 50 are rejected under 35 U.S.C. §103(a) over U.S. Patent Publication No. 2002/0123327 to Vataja ("Vataja") in view of U.S. Patent Publication No. 2002/0032035 to Teshima ("Teshima"). Claims 10 and 49 are rejected under 35 U.S.C. §103(a) over Vataja in view of Teshima in further view of U.S. Patent No. 6,647,257 to Owensby ("Owensby"). Claims 28–32, 45, 46, and 51–53 are rejected under 35 U.S.C. §103(a) over Vataja in view of U.S. Patent No. 6,987,976 to Kohar ("Kohar") in further view of Teshima. These rejections are respectfully traversed. It is respectfully submitted that claims 1, 5, 6, 9–20, 22, 28–42, 45–50 and 54 are allowable over Vataja alone and in view of any combination of Owensby, Teshima and Kohar for at least the following reasons.

The Office Actions has taken a position that Vataja shows "wherein the specified mobile object is identified by the sender, and has a motion characteristic not associated with motion of the intended recipient (Sections 0004-0008 and 0027-0032, [concluding that]

if both devices had the same motion than there would be no need to transmit a message since the users would be next to each other)." (E.g., see, Office Action, pages 3 and 17.)

This conclusion seems to stem from an interpretation of the pending claims and what is recited therein that is in contrast with what is intended by the Applicants. Accordingly, the Applicants have elected to amend the claims herein to clarify that the delivery of the message from a first device to a second device is based on a third device reaching a designated location. This is in contrast to the interpretation of the Office Action which interprets Vataja as showing that the first and second devices are logically at different locations.

Vataja merely shows delivery of a message to a device when the device arrives at a location (see, Vataja, paragraphs [0004], [0008], [0029] and [031] cited in the Office Action).

Teshima is cited to show other elements of the claims and does not cure the deficiencies in Vataja.

Similarly, while it is undisputed that "Vataja fails to teach determining a position of one of the intended recipients relative to another recipient" (see, Office Action, page 17). Kohar is cited to provide that which is admitted missing from Vataja, however, it is respectfully submitted that reliance on Kohar is misplaced.

Kohar merely discloses, "the position information comprises the relative position of the first mobile terminal with respect to the second mobile terminal ... [with] [t]his relative position ... transmitted to the second mobile terminal" (See, Kohar, Col. 2, lines 42-51 cited in the Office Action.)

However, it is respectfully submitted that Kohar does not send a message from a first device to a second device based on a relative position between the second device and a third device.

It is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Vataja in view of Teshima. For example, Vataja in view of Teshima does not teach, disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "enabling both the sender using a first device and the intended recipient using a second device to send and receive an electronically deliverable message between the first and second devices; ... tracking a third device having a position-determining device that determines its own current position, and which transmits its then current position at preset time intervals; ... initiating a procedure for automatic delivery of said message electronically to the second device of the intended recipient upon the third device being determined to have reached said designated location, with each of the first, second and third devices being different devices; wherein the third device is identified by the sender" as recited in claim 1, and as similarly recited in each of claims 20, 33, 40, 41, 42 and 47-50 .

Further, it is respectfully submitted that the method of claim 30 is not anticipated or made obvious by the teachings of Vataja in view of Kohar in view of Teshima. For example, Vataja in view of Kohar in view of Teshima does not teach, disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "obtaining, at the server, a message based on input from a first client; obtaining, at the server, an identification of a second client as the intended recipient for receiving said

message, based on input from said first client; obtaining, at the server, an identification of a third client, based on input from said first client; and automatically triggering electronic delivery of said message to the second client of the intended recipient upon said second client being determined to be at a designated position relative to the position of said third client, and with each of the first, second and third clients being different clients" as recited in claim 30, and as similarly recited in each of claims 28, 45 and 46.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 20, 28, 30, 33, 40-42, and 45-50 are patentable over Vataja, alone and in view of any combination of Teshima, Owensesby, and Kohar, and notice to this effect is earnestly solicited. Claims 5, 6, 9-19, 22, 29, 31, 32, 34-39, and 51-53 respectively depend from one of claims 1, 20, 28, 30, 33, and 46 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration and allowance of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

It is not believed that any further fees are due for entrance of this amendment other than those paid concurrent herewith. However, if any additional fees are due, please charge any additional fees which may be required in this application, including extension of time fees, but excluding the issue fee unless explicitly requested to do so, and credit any overpayment, to Deposit Account No. 50-3649.

Respectfully submitted,

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